



John L. Salomone  
Town Manager

# TOWN OF NEWINGTON

131 CEDAR STREET  
NEWINGTON, CONNECTICUT 06111

**MAYOR JEFF WRIGHT**

## MINUTES

### CHARTER REVISION COMMISSION

**November 13, 2008**

#### **I CALL TO ORDER**

Commissioner Bafundo called the meeting to order at 6:30 PM in the Helen Nelson Room of the Newington Town Hall.

#### **II PLEDGE OF ALLEGIANCE**

#### **III ROLL CALL**

##### Commissioners Present

Nancy Bafundo – Chair

Tony Boni

Peter Boorman (exited the meeting at 9:00pm)

Robert Briggaman

Alan Nafis

##### Also Present

Jeff Wright – Mayor

Justin Clark – Counsel

Tanya Lane – Town Clerk

(Note: Verbatim comments indicated by *italics* unless otherwise noted.)

#### **IV PUBLIC PARTICIPATION**

Myra Cohen, 42 Jeffery Lane, Town Councilor: Mrs. Cohen corrected two of her statements recorded in the October 27, 2008 minutes:

- Page two, her comment regarding Charter Section 805 should state “The sentence regarding fixing the tax rate in mills is being deleted”
- Five lines below the above amended comment, the phrase should read “even proposed Section 821”.

Mrs. Cohen noted that the Commission has not discussed, for or against, *no referendum vs. one referendum vs. new referendum*, nor has it fully discussed petition vs. automatic/mandatory referendum or what happens when inflation reaches, for example, five-percent. She noted that the Commission has also not discussed how many voters are required to vote on the proposed referendum nor has it discussed how many votes are required to pass the budget. Mrs. Cohen stated that according to the proposal, the Council’s budget is rejected unless the majority of those voting approve it, and indicated that the language should specify the percentage of voters that are required to reject the budget for the budget to fail. She stated that the language should not mandate a budget referendum that requires voters who do not object to the budget to come out and vote. Mrs. Cohen stated that over forty years ago Newington had a Town Meeting form of government, but the Town became too large and running the government became too complex for the average citizen to be involved enough to make informed decisions; therefore a Town Manager/Town Council form of government with a professional Town Manager for day-to-day operations and a volunteer Town Council willing to spend the time to understand the Town’s operations in order to make informed policy decisions was created. She remarked

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that the average citizen does not look at the details of the Town budget, does not consider services needed for safety and quality of life for the community, and does not consider the consequences when revenue from non-tax sources is down and cost of Town operations is up. She stated that the services that the Town provides, how these services are paid for and what services may have to be reduced or eliminated are the most important decisions that Councilors have to make, and remarked that proposed Section 821 has a percentage-restriction that does not take into account the entire picture. She explained that Section 821 mandates an important decision to be made by citizens who do not have enough information and may not even want to be obligated to make a decision that concerns only the bottom-line number but not how you get to that number. Mrs. Cohen noted that new language was introduced at the last meeting, *and you immediately endorsed and voted on it*. She implored the Commissioners to obtain a copy of page one of the budget book and look at what goes into the amount to be raised by current taxes, and to use the language that *is in there so that you know what you are looking at*. She stated that if there is a decrease in non-tax revenue, plus a decrease in the grand list and a decrease in the tax collection rate, the Council will be forced to face some difficult decisions regarding which services to be cut. She stated that the proposed education circuit breaker may gain the support of parents for Section 821 but will put an added burden on the Town Council as they look for ways to keep a tight reign on the budget. She noted that until now the language referred to the mill rate increase, or in the case of revaluation years, the increase in total proposed expenditures, and noted that the circuit breaker refers to Board of Education proposed expenditures and non-Board proposed expenditures. She noted that this Section appears to only apply to the ultimate final budget and inquired whether this refers to the Board of Education and Town's operating budgets, or whether the Board and Town share a total appropriation, which includes debt services for the Town and Board, capital improvements for the Town and Board and employee liability reserve funds for the Town and Board. She inquired how much time the Council will have to produce the ultimate final budget, and urged the Commission not to include Section 821 in the Charter until it has examined what every sentence means, including the meaning of "real dollar value", and urged the Commission not to include Section 821 in the Charter if all of the long-term effects cannot be explained.

Jay Bottalico, 37 Valley View Drive, Town Councilor: Mr. Bottalico commented that this is the third time he has come before the Commission to urge the Commission to separate the position of Fire Marshall and Fire Chief so that the positions must be held by two different people. He also recommended that the Commission change Charter language to make Fire Commissioners appointed positions rather than elected offices. He stated that *right now if someone screws up there are no penalties. I don't know if you are ever going to discuss this, but I'll tell you what, when it comes to the Council we sure will.*

## **V MINUTES**

A 10/27/08 Special Meeting

The Commission agreed by consensus to table the approval of the minutes of the 10/27/08 meeting until the next meeting pending a revised copy based on the availability of the tape.

## **VI MATTERS TO BE CONSIDERED**

A Discussion—as Time Allows, Review/comparison of Version 6- Revisions to Original Charter

The Commission agreed by consensus to go through the Charter Section by Section to address questions and changes.

### **Section 102 – Rights and Obligations**

Commissioner Boorman noted that the term "debtor lien" needs to be separated to read "debt or lien".

### **Section 103 – General Grant of Powers**

Commissioner Bafundo inquired whether the language "Amended Effective 1-1-1992" will be removed from all Sections. Atty. Clark replied in the affirmative. Commissioner Boorman recommended striking the language from all Sections moving forward.

### **Section 201 – Regular Town Elections**

Commissioner Bafundo noted that the language "regular town election" should read "regular town elections"

## Section 202 – Elected Officials

Atty. Clark stated that all changes requested at the previous meeting should be included in the revisions for this Section. Commissioner Boorman noted that there should have been a sentence added to Section 202(B) that states “The Board is specifically authorized to delegate authority to the Fire Chief(s)” prior to the existing sentence which reads, “Members shall serve for four-year staggered terms and until their successors are chosen and qualified.” Mayor Wright stated that the last sentence of the Section, which reads, “The board may delegate this authority to the fire chief” should be removed. Commissioner Boorman requested that the sentence “This function is non-delegable” be changed to read, “This function shall not be delegated.”

Atty. Clark stated that he researched how other towns’ Charters operate in terms of whether the same person can serve in both the Fire Marshall and Fire Chief positions. He indicated that Rocky Hill does have a control in place in which the *Commissioner of Public Safety cannot appoint both the Fire Chief and the Fire Marshall. The appointing authority is different, but it could be the same person.* Atty. Clark stated that in speaking with Rocky Hill’s Town Manager he learned that *they live by the rule that the positions cannot be held by the same person.* He noted Rocky Hill Charter language which states, “There shall be a Fire Chief appointed by the Town Manager who shall direct the operation of fire companies at fires.... There shall be a Fire Marshall appointed by the Town Manager from within the division of fire, qualified, who shall not serve in any other position that is appointed by the Director of Public Safety” and stated that it is technically not prohibited by the Charter, and stated that while there could be two different people serving as Town Manager and Director of Public Safety, in reality they are usually the same person. Commissioner Boorman inquired whether Atty. Clark was able to locate any other town that has Charter language that prohibits the Fire Chief and the Fire Marshall from being the same person. Atty. Clark replied in the negative. He noted that he did perform a poll of various area Town Managers and stated that the Town of Simsbury has a Fire District that is separate from the Town, and indicated that while there is nothing in the West Hartford Charter, West Hartford uses a professional fire department. He stated that *finding a town that has a volunteer fire department that also has that kind of split – there is just not a lot out there.* Commissioner Nafis inquired whether Atty. Clark spoke to the State Fire Marshall, noting a comment from a speaker during public participation at a prior meeting that the State Fire Marshall does not have a problem with this arrangement in terms of conflict. Atty. Clark replied that the State Fire Marshall does not have a problem with the arrangement because it is allowed to happen in Town and noted that the State Fire Marshall typically has a hands-off approach. Commissioner Boorman indicated that he has heard previous comments that there are several towns with volunteer fire departments that do not allow the two positions to be held by the same person. Atty. Clark replied that while that may be the case, there are not many Towns that specify such in the Charter.

Commissioner Bafundo noted that the Chief position is a volunteer position and the Fire Marshall position is a paid position and inquired whether this begs the same question as when Town employees want to become elected officials. Atty. Clark replied that it is not the same issue, and explained that the theory is that not allowing a Town employee to run for office would infringe upon his or her right to run for office and make his or her political opinion known. He stated that with the Fire Chief/Fire Marshall issue there is no restriction of someone’s political voice. Commissioner Boorman noted that the Fire Chief is not an elected position. He remarked that he feels that the Commission is missing information and requested that Atty. Clark contact the State Fire Marshall’s office to inquire whether there are towns that have limitations on the two positions. Atty. Clark stated that he checked the Charters that were able to be checked – Charters that are available online or Charters in which he was able to call to obtain a copy. He noted that not all towns have their Charters widely available and also noted that quite a few towns with volunteer fire departments are smaller towns that do not have Charters at all.

Mayor Wright inquired whether any Commissioners have any opinions about potential conflicts or any feelings towards changing the existing language. Commissioner Briggaman noted a conversation he had with the Rocky Hill Fire Marshall on October 7, 2008, in which the Fire Marshall made the following points:

- The two positions are two distinct positions with distinct statutory duties and responsibilities.
- It is hard to wear more than one hat – one person cannot do both jobs at the same time without having a subordinate to handle the duties of one position or the other.
- He held both positions for three months, and had commented that he was a busy person and it was the happiest day of his life when a Chief was appointed.
- The Rocky Hill Charter Revision Commission felt it was too much for one person to adequately handle the duties of both positions and felt that there could be a conflict regarding investigations.

Commissioner Briggaman stated that both positions should not be held by the same person, and noted that there were a number of speakers that came before the Commission and expressed the same desire. Commissioner Boorman noted that the Town currently has a situation in which the Fire Chief is the same person as the Fire Marshall, and inquired what would happen if the Charter revision passes with language that prohibits the same person from holding the two positions. Atty. Clark replied that one possibility is that a provision can be added to the enactment clause of the new Charter that people in the indicated positions shall remain in those positions for the remainder of their terms, and stated that another possibility would be to allow the person in those positions to choose which position to remain in, or to allow the Town Manager to make such decision. Commissioner Briggaman noted a discussion he had with the Town Manager of Rocky Hill in which she informed him of an incident a few years back in which the Fire Chief suddenly quit via email, and she obtained a legal opinion that stated that the Chief position could be filled by the person who holds the Fire Marshall position in the interim period until a new person is chosen as Fire Chief. Commissioner Boorman indicated that the legal opinion in that case may vary from one in Newington since Rocky Hill selects its Fire Chief and Fire Marshall in a different way. He inquired of Atty. Clark about sample language regarding prohibiting the Fire Chief and Fire Marshall to not be the same person. Atty. Clark distributed the draft language of Section 202(B)(4) to the Commission which reads: "Any person who shall serve as Fire Marshall and/or shall have all the powers and duties that are or may be conferred upon Fire Marshalls by the Connecticut General Statutes, the Council or the Manager shall not concurrently serve as Fire Chief." Commissioner Nafis inquired whether this language would make it impossible for the two positions to be held by the same person on an interim basis, as was the situation in Rocky Hill. Mayor Wright inquired whether a clause could be added to the language allowing for a three-month interim basis if necessary. Commissioner Bafundo inquired why such a clause would be necessary. (Several people speak at once.) Commissioner Boorman remarked that he would like to consider this information and discuss it at the next meeting and again invited members of the Fire Department, the Fire Marshall or Fire Commissioners to address the Commission in the issue, and requested that the proposed language be forwarded to the Fire Department, Fire Marshall and Fire Commissioners for consideration. He also invited Councilor Bottalico to speak to the Commission as to why he feels that the two positions should not be held by the same person. Commissioner Nafis concurred, and stated that he has heard pros and cons on both sides. He stated concern about the possibility of a conflict in interest and requested more information and for members of the Fire Department to come before the Commission. Mayor Wright stated that even if the State Fire Marshall's Office does not believe that there is a conflict the Town can still make the policy decision that the two positions cannot be held by the same person. Commissioner Bafundo noted that the Commission has heard people speak on both sides of the issue and remarked that it is an issue that is to be handled with care. She noted that the Commission has asked several times for more information and opinions on the matter and has not seen much of a reply. Commissioner Bafundo stated that she is unsure whether the Charter is the correct place to address the item, and stated that it may be an issue that can be taken care of using common sense.

Commissioner Boorman stated that if the Commission does go in the direction of the draft language there will need to be a policy decision about what to do with the current situation in which the same person serves in both positions. Atty. Clark distributed draft language that would address that situation. He explained that the language would be a Section regarding existing office-holders and would be added to Article X. He explained that he used other towns' Charter language to draft this language and indicated that the draft language would be the new Section 1003 - Existing Office Holders, which reads, "The Mayor, Manager, members of the Council, as well as members of all Boards and Commissions, and any other public official holding office as of the date of the adoption of this Charter, shall continue to hold such office until the expiration of their previously authorized term, and until their successors have been chosen and qualified, except insofar as the holding of such office is inconsistent with the provisions of this Charter."

He stated that the draft language as written would require that the two positions are split apart immediately, and stated that the phrase "except insofar as the holding of such office is inconsistent with the provisions of this Charter" would allow the current situation to remain until *that person left*. Commissioner Nafis inquired whether removing the language would affect any other positions. Atty. Clark replied that the Fire Chief/Fire Marshall would be the only positions affected since they are the only positions that are being changed. Commissioner Boorman asked for the Commission's consensus to forward the language to the Fire Department, Fire Marshall and Fire Commission and to ask for their input and information about the issue. Commissioner Boni noted that there has been a reluctance from the various Fire Department members to come and speak to the Commission and inquired whether the Commission should interpret such reluctance to mean that the members want or don't want this change. He stated that the Commission should make its decision based on the information it

has now, and stated support for separating the two positions. He noted that he has heard from anonymous sources that there is confusion about the chain of command and authority within the Fire Department as well as a conflict of interest as mentioned before. He suggested that the Fire Chief be an appointment of the Town Manager and suggested that the Fire Marshall's office be relocated away from the fire house and into Town Hall. Commissioner Boorman inquired whether Commissioner Boni is suggesting that those two provisions be included in the Charter. Commissioner Boni replied that he would like to see the Town Manager's appointment of the Fire Chief included in the Charter. Commissioner Boorman noted that Commissioner Boni spoke of anonymous sources and questioned whether the Commission should make decisions based on anonymous sources. Commissioner Boni replied that anonymous sources are better than no sources. Commissioner Boorman remarked that anonymous sources don't carry much weight to him, and stated that people with an opinion should come speak to the Commission. (Several people speak at once.) Commissioner Briggaman noted that the Commission has asked for people to speak to this matter several times, and has not had any response. Commissioner Boorman noted that there is now specific proposed language that addresses the issue.

Commissioner Bafundo noted that there has been a common theme among the comments she has heard of conflict and confusion in respect to the roles. She also inquired that if there are concerns about allowing the two roles to be served by the same person than why would the Commission allow that to happen (in regards to proposed Section 1003). She stated that she would not support the proposed language in Section 1003. Commissioner Nafis stated that there would need to be a time period for the transition to occur. Commissioner Bafundo agreed. Atty. Clark explained that he used the term "authorized term" because it was the broadest way to cover all the bases. Commissioner Boorman reminded the Commission that the language is proposed language only at this point. The Commission agreed to move on to the next Section.

#### Section 203 – Minority Representation

Commissioner Bafundo noted comments by Councilor Bottalico regarding members of the Fire Commission. Commissioner Boorman noted that Councilor Bottalico had recommended changing the Fire Commission position from an elected position to an appointed position, and Commissioner Boorman noted that the Charter Commission had discussed the issue in a past meeting and that the Charter Commission had indicated at the time that it does not wish to make this change.

Commissioner Nafis noted that line two of Section 203(A) should read "for more than the Mayor" rather than "or more than the Mayor".

#### Section 204 – Vacancies in Elective Offices

(Remove Amended Effective 1-1-92) No additional changes.

#### Section 205 – Independent Candidates

Commissioner Boorman noted that the term "ballot" appears rather than "voting machines" or "tabulators".

#### Section 206 – Qualifications

(Remove Amended Effective 1-1-92) No additional changes beyond those listed in Revisions Version 6.

#### Section 207 – Voting Districts

No amendments made to this Section

#### Section 301 – Election and Qualifications

No additional changes

#### Section 302 – Duties

Commissioner Boorman noted that previous speakers had inquired about the ability of the Mayor to actually sit on a board or commission and inquired whether the Commission should address the language regarding that issue. Mayor Wright stated that the language is clear as written. Commissioner Boorman noted that the current Mayor is currently sitting on a committee as a voting member. Mayor Wright stated that the Section on boards and commissions does not prohibit the Mayor or any Town Council members from serving as voting members of a board or commission. Commissioner Boorman inquired which Charter Section contains that language. Mayor Wright replied that the Commission should deal with that Section when it gets to it. Commissioner Boorman stated that the issue should be addressed in the current Section (302). (Several

people speak at once.) Commissioner Boorman indicated that there is *no other place in the Charter where it says that*. He stated that this Section is the correct place to discuss whether or not the Mayor should be allowed to serve as a voting member on a board or commission. Mayor Wright stated that this Section allows the Mayor to attend any board or commission meeting that he or she chooses to attend as a non-voting member, and stated that the language does not prohibit the Mayor and/or Town Councilors from sitting on boards or commissions as full members of that commission. He stated that the Charter language works as is. Commissioner Bafundo agreed with Commissioner Boorman that the language needs to be addressed and clarified. Atty. Clark clarified that the Mayor is allowed to attend any meeting but cannot vote; but the Mayor may be appointed to a commission and then would serve on that commission, not as Mayor but as a commissioner. (Several people speak at once.) Commissioner Bafundo stated that there are currently boards and commissions in which there are Town Councilors and Board of Education members that are appointed members with full voting rights. Commissioner Boorman indicated that no Town Councilor has the same ability as the Mayor to sit on and participate without being a full voting member of a commission. He stated that there is a distinction between the duties of the Mayor and the Council, and stated that the language should be clear as to whether the Mayor can or cannot serve. Commissioner Bafundo noted that having served as a Councilor in the minority party with a Mayor as a minority member that Mayor served on boards and commissions, and agreed that the language should be cleaned up. She also noted that Mayors have served on various building committees as full voting members several times in the past. Commissioner Nafis stated that he understands the current language to mean that the Mayor is an ex officio member of any board or commission, but cannot vote or be appointed to a board or commission. He stated belief that the language was written that way because the Mayor sets agendas and runs the Town and should have the right to talk about everything but does not necessarily need to have the right to vote on a board or commission. Mayor Wright stated that the Mayor should have the right to serve as a full voting member of a commission, in addition to the ex officio position. Commissioner Boorman inquired as to Mayor Wright's reasoning for his opinion, and inquired whether there is a policy reason why that it is a good idea. Mayor Wright replied that it is a good idea because beyond being the chief elected official and having the ability to sit in and participate in meetings of boards and commissions the Mayor, from a practical standpoint, has no distinct or additional privileges or powers beyond those of a regular Town Council member. He stated that if Councilors are appointed to various boards and commissions then the Mayor should not be prohibited from being appointed as well. Commissioner Boorman inquired whether Mayor Wright sees any downsides to allowing the Mayor to serve as a full member of a commission. Mayor Wright replied in the negative. Commissioner Boorman inquired whether allowing the Mayor to serve as a voting member may give the Mayor too much power. Commissioner Boni stated that Mayor is basically a Council member that has the title of Mayor, and agreed with Atty. Clark's previous comments that when the Mayor is appointed to a commission he serves as a member of that commission, not as the Mayor. Commissioner Boorman inquired whether this means that any Councilor that services on a commission is not serving as a member of the Council. (Several people speak at once.)

Commissioner Bafundo stated that there have been situations in which the Mayor has been a voting member of a commission, stated that the Mayor is a member of the Council and noted that there are commissions that have Council representation. She stated that she does not have a problem whenever there is a Council position on a commission potentially having the Mayor fill that position. She also commented that there may be a future situation in which a commission may be created in which it would be beneficial to have the Mayor serve as a voting member and stated that the language should allow that to happen. She stated that she would be opposed, however, to allowing the Mayor or a Councilor or Board of Education member to serve on a citizen slot on a board or commission.

Mayor Wright stated that he serves on the Downtown Revitalization Committee, which was set up by the Council to include four members of the Town Council and five members of the Economic Development Commission, and stated that he sits on the Committee as a voting member representing the Council. He stated that the current language clearly spells out the duties of the Mayor and the Council and remarked that it works as written. Commissioner Boorman noted that the current language does not distinguish between the various types of commissions and agreed with Commissioner Bafundo that language should be drafted regarding the issue and stated that while he does not necessarily agree that is a good idea to allow the Mayor to serve on a commission, he has not yet made up his mind. Commissioner Briggaman stated that he does not have a strong opinion one way or the other and also requested to have language drafted.

### Section 303 – Appointments

Commissioner Boorman noted language in Section 303(A)(1) which states, “the Town Attorney shall have such assistants as the Council may determine” and explained that the Town Attorney serves at the pleasure of the Mayor and inquired whether it would make sense to have the Council determine the assistants, or whether they should also be determined by the Mayor. Mayor Wright indicated that from a practical standpoint the Mayor does appoint the assistants. Commissioner Boorman replied that the language should be changed from Council to Mayor and stated that in his experience as a past Town Attorney it makes sense for the Mayor to do so as it is something that typically requires rapid action. Commissioner Nafis noted language in that Section which states, “The Mayor shall appoint all professional assistants” and inquired whether that means the same thing. Commissioner Boorman replied that such language refers to conflicts. Mayor Wright inquired as to how the language should be changed. Commissioner Boorman suggested changing the word “Council” to “Mayor”. Commissioner Briggaman suggested changing “Council” to “Council or Mayor”. Atty. Clark commented that while the Mayor may appoint whomever he wishes, the Council still has to approve the budget. Commissioner Briggaman inquired whether there is a downside to changing “Council” to “Mayor”. Commissioner Boorman replied that one possible argument is that it would give the Mayor too much power, and stated that he does not necessarily agree with that argument since the Mayor already has the power to appoint the Town Attorney, and noted Mayor Wright’s comment that it already happens that way anyway.

### Section 401 – Composition

No amendments made to this Section

### Section 402 – Powers

Commissioner Bafundo inquired whether language pertaining to the Councilors being appointed as members of a committee should be included in this Section. Mayor Wright replied in the affirmative. Commissioner Bafundo stated that such language should be comparable to the language in Section 302.

### Section 403 – Organization

(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6.

### Section 404 – Procedures

No additional changes beyond those listed in Revisions Version 6.

### Section 405 – Introduction of Ordinances

Commissioner Boorman suggested adding the phrase “and the Town website” to the language which reads, “one copy posted on the Town bulletin board”. Atty. Clark inquired whether the phrase “bulletin board” should be made plural. Commissioner Bafundo stated that the suggestion was meant to encompass electronics. Town Clerk Tanya Lane noted that there are currently FOI regulations in the State Statutes that require information to be posted. Commissioner Boorman recommended including the phrase “Town website” for clarity.

### Section 406 – Public Hearings and Passage of Ordinance

Commissioner Boorman suggested adding the phrase “and the Town website” to the language which reads, “proposed ordinance in full on the Town bulletin board”. He also suggested changing the phrase “The Council may make such changes as it considers advisable before passing said ordinance” to “The Council may make such changes as it considers advisable before voting on said ordinance”. Commissioner Nafis stated that the Section is entitled “Public hearings and passage of ordinance”. Commissioner Briggaman suggested changing the language to “consideration of said ordinance”. Commissioner Boorman inquired whether the word “consideration” should be used in the title of the Section. Atty. Clark replied that he is unsure whether that would work because the first sentence states, “Before an ordinance, except an emergency ordinance, shall be passed” and stated that this sets the criteria by which an ordinance can be passed. Commissioner Boorman inquired whether the ordinance is being passed or considered. Atty. Clark replied that an ordinance can be voted on without going *through these hoops and it passes*. Commissioner Bafundo stated that *it is written in the past. It has already been passed because all of these other things have happened*. Commissioner Boorman stated that the public must be notified of a potential ordinance before it is passed. Commissioner Bafundo noted that the language was written in past-tense and Atty. Clark explained that it basically states that if the Council has passed an ordinance it has done X,Y,Z. Commissioner Boorman suggested that the language be changed to the present tense. He stated that the sentence that deals with passage of an

ordinance is correct. The Commission agreed to re-tense the language and to change the title from “passage” to “consideration”.

#### Section 407 – Borrowing

No additional changes beyond those listed in Revisions Version 6.

#### Section 408 – Obligatory Referendum and Ordinance

Commissioner Boorman noted that the Commission has discussed percentages in various Charter Sections and in discussion about budget referendum and noted language in Section 408 which states, “until the same has been approved by a majority of the qualified electors voting thereon, and such majority consists of ten percent or more of the total number of qualified electors of the Town” and inquired whether the ten-percent is too much, too little or just right. Commissioner Briggaman inquired why this should be any different from a general election, and stated that he is opposed to having any required percentage. Commissioner Boorman stated that there is a difference between a general election and a referendum vote and indicated that referendums are generally not well-attended. He remarked that it is not democracy when a small group of people is able to push a referendum and the vote does not really represent a large percentage of the electors. Commissioner Nafis noted that the ten-percent was included to go along with language in Sections 410 and 411. Mayor Wright agreed with Commissioner Briggaman and stated that the ten-percent requirement should be eliminated from the Section. Commissioner Boorman disagreed. Mayor Wright stated that there are no qualifiers for elections for office, and stated that everyone has the right and responsibility to vote but can also choose not to vote. Commissioner Boorman inquired what the State Legislature would do in the event that only ten-percent of voters turned out for an election. Commissioner Nafis stated that the language was included for a reason. Commissioner Boorman stated that there should be some percentage of voters to turn out in order for a vote to mean something. Commissioner Bafundo questioned whether the Commission has the right to determine whether or not a percentage turnout makes a vote valid and spoke in favor of removing the percentage from the language.

Commissioner Briggaman moved to strike the language “and such a majority consists of ten percent or more of the total number of qualified electors of the Town” from Section 408. Motion seconded by Councilor Boni.

Commissioner Bafundo requested a roll call vote:

Commissioner Bafundo – yes

Commissioner Boni – yes

Commissioner Boorman– no

Commissioner Briggaman– yes

Commissioner Nafis – no

Motion passed 3-2, as indicated by the roll call vote above.

The Commission agreed by consensus to take a brief recess.

#### Section 409 – Emergency Ordinance

No amendments made to this Section

#### Section 410 – Right of Referendum on Ordinances

Atty. Clark indicated that this Section also contains language requiring a percentage of qualified electors – the first being a 5-percent requirement for a petition. Commissioner Boorman stated that in order to be consistent the number of signatures required on a petition should be one. Mayor Wright stated if there are other reasons to have a petition then there should be a threshold for the petition, and stated that in terms of future discussion on Section 821 there are items that trigger an automatic referendum. He stated that the language in Section 410 regarding petitions should remain as-is.

Atty. Clark noted that Section 410 also contains language regarding ten-percent of qualified electors, similar to Section 408.

Commissioner Briggaman moved to strike the language “and such a majority consisting of at least ten percent of the qualified electors of the Town” from Section 410. Motion seconded by Councilor Boni.



Commissioner Bafundo requested a roll call vote:  
Commissioner Bafundo – yes  
Commissioner Boni – yes  
Commissioner Boorman– no  
Commissioner Briggaman– yes  
Commissioner Nafis – no

Motion passed 3-2, as indicated by the roll call vote above.

Commissioner Nafis inquired whether the last part of the removed language “Otherwise it shall take effect immediately following the referendum” has been removed. Atty. Clark replied in the negative. Commissioner Boorman stated that there will have to be new language drafted in order for that Section to make sense.

#### Section 411 – Initiative

Commissioner Briggaman moved to strike the language “and such a majority consisting of at least ten percent of the qualified electors whose names appear upon the last completed Registry List” from Section 411. Motion seconded by Councilor Boni.

Commissioner Bafundo requested a roll call vote:  
Commissioner Bafundo – yes  
Commissioner Boni – yes  
Commissioner Boorman– no  
Commissioner Briggaman– yes  
Commissioner Nafis – no

Motion passed 3-2, as indicated by the roll call vote above.

#### Section 412 – Removals and Suspensions

Commissioner Boorman stated that the first sentence in Section 412(B) is confusing because Section 412(A) states that a Town Manager may be removed without cause, while members of other offices or positions may only be removed with cause. He suggested adding language “that constitutes cause where required in Section (A).” to the sentence “The Council shall act first by suspending such person and promptly serve such person with a copy of the resolution of suspension together with the reasons...” The Commissioners agreed.

#### Section 413 – Investigation

Commissioner Boorman requested that Atty. Clark research whether there is a State Statute that authorizes the Council to issue a subpoena. Atty. Clark replied that according to his research the term “subpoena” is broad, but he is unsure who has the power to actually make the subpoenaed person show up.

#### Section 414 – Compensation

Commissioner Boni inquired how reimbursements are handled (note: exact wording of question not audible on the tape). Commissioner Bafundo replied that how reimbursements are made is a policy decision to be made by the Council, and the Council would define legitimate expenses.

#### Section 415 – Concurrent Offices

Commissioner Nafis noted that the Section had been removed, and inquired whether this Section would be the place to address whether the Mayor/Council should be allowed to be appointed to a commission or board or hold other elected office. Commissioner Boorman stated that he does not believe that there is any restriction in the Charter against an elected official holding any other elected office. Commissioner Nafis stated belief that the phrase in the previous language “appointed office” means the Council’s ability to serve on boards or commissions. Mayor Wright stated that he does not believe that boards and commissions are appointed offices. (Several people speak at once.) Commissioner Bafundo stated that this Section of the Charter was to indicate that a person who is employed by the Town cannot run for elected office, and noted that the Section has been struck from the Charter in accordance to State laws. Mayor Wright inquired about the meaning of the term “elected”, and whether it can include the State Legislature. Commissioner Boorman replied that “elected” refers to Town government in this application. Mayor Wright stated that he doesn’t believe that the Town’s elected officials should serve in other elected offices outside of Town, but from a practical standpoint the Mayor

and Councilors have historically been appointed to boards and commissions. Commissioner Nafis stated the Section 415 should remain in the Charter, but it should contain whatever language the Commission approves regarding current offices. Commissioner Bafundo remarked that she is unsure whether the item needs to be addressed in Section 415, since it is already addressed under other Sections. Commissioner Nafis stated that the Council is addressed in this Section, while the Mayor is addressed in a different Section.

#### Section 501 – Appointment, Qualification and Tenure

Commissioner Boorman inquired whether the twelve-month time-period requirement for the Town Manager to reside in the Town begins when he or she is appointed or when he or she takes office. Commissioner Nafis replied that it is time of appointment. Commissioner Briggaman noted that the language states, “while in office shall reside in Town.” Mayor Wright noted that there may be a several month period from the time a Town Manager is appointed to the time he takes office and recommended changing the language to reflect twelve-months from the time he takes office. Commissioner Boorman inquired about what is technically the first day of employment: the day the contract is signed or the first day that the Town Manager actually shows up for work. The Commission agreed by consensus to make the twelve-month period begin when the Town Manager actually begins work for the Town.

#### Section 502 – Powers and Duties

(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6.

#### Section 503 – Appointments

Commissioner Boorman inquired as to why employee appointments made by the Town Manager are limited to full-time employees, and why the Town Manager does not appoint part-time employees as well. Commissioner Bafundo stated that as Personnel Director he should appoint all employees. The Commission agreed by consensus to change the language to reflect that the Town Manager appoints full-time and part-time employees.

#### Section 504 – Acting Manager

Commissioner Boorman inquired under Section 504(B) whether it is practical to limit the temporary Acting Manager to an employee of the Town. Mayor Wright replied that it is practical as it is part of the current infrastructure to have someone available to work as the acting Town Manager on a temporary basis if needed. Commissioner Boorman stated that striking the phrase “Town employee” from the language will allow the Town Manager greater flexibility if necessary. Mayor Wright stated that the Acting Manager should be a Town employee and the Town Manager should not have flexibility outside of Town employees. Commissioner Bafundo stated that requiring a Town employee would ensure that the Acting Manager is current and active within the Town and noted that the Town Manager has not expressed any concerns with the issue.

#### Section 505 – Compensation

No amendments made to this Section

Commissioner Boorman requested, due to the time (8:30pm), that the Commission move on to the next portion of the agenda. Mayor Wright disagreed. The Commission debated whether to move on or continue with the discussion. The Commission agreed by consensus to discuss Article XI and then move on.

#### Section 601 – Town Plan and Zoning Commission

No amendments made to this Section

#### Section 602 – Zoning Board of Appeals

No amendments made to this Section

#### Section 603 – Library Trustees

Commissioner Briggaman noted that there have been several comments and requests to define the total number of members on the Library Board of Trustees. Atty. Clark replied that the total number of Board members is not defined by the Charter. Commissioner Briggaman noted language that “concurrence of a majority of the full Board of Trustees”. Atty. Clark stated that the number of Trustees can change, as it is not governed by the Charter. Commissioner Boorman stated that there are likely some rules regarding the number of Trustees defined within the agreement between the Library and the Town. The Commission agreed by consensus to keep the language as-is.

Section 604 – Board of Assessment Appeals  
No additional changes beyond those listed in Revisions Version 6.

Section 605 – Board of Parks and Recreation  
No additional changes beyond those listed in Revisions Version 6.

Section 606 – Development Commission  
(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6.

Section 607 – Conservation/Inland Wetlands Commission  
Commissioner Briggaman inquired whether the language should read “Conservation/Inland Wetlands Commission” or Conservation and Inland Wetlands Commission”. Atty. Clark replied that the slash (/) is to indicate that it was two Commissions merged into one, rather than two separate Commissions. Commissioner Nafis clarified that it is really one Commission that handles both conservation and inland wetlands, and stated that the language is correct as written.

Commissioner Briggaman noted an extra space on the third line between “Inland” and “Wetland”.  
Commissioner Bafundo noted that the last line of the Section contains extra spaces as well. Atty. Clark explained that the extra spaces are because of the justified formatting of the document.

Section 608 – Commission on Aging and Disabled through Section 612 – Consultant Services  
(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6.

The Commission agreed by consensus to table discussion on agenda item VI-A, and also agreed that they have covered discussion on agenda item VI-C - Discussion—as Time Allows, Follow-up on Questions Related to Other Sections of the Charter That have been Previously Discussed.

B        Discussion—as Time Allows, Proposed Language for Charter Revision Re: Budget Referendum.

Commissioner Bafundo disagreed with Councilor Cohen’s previous comments that the Commission has not spent enough time discussing certain components of the proposed budget referendum. Commissioner Boorman remarked that this Section demands more attention and discussion and noted that it unfortunately keeps coming up later on a meeting agenda and is causing the Commission to *plow through the rest of the Charter and looking to get a finalized version of that*. He stated that if the budget referendum appeared first in Section VI of the agenda the Commission could probably have a discussion to finish it up, and remarked that it is difficult to begin the discussion on a contentious issue this late in the evening. Commissioner Bafundo noted that the items on the agenda have rotated and that the budget referendum item has not always been the last item on the agenda. Commissioner Boorman concurred, but stated that it has come up late during recent meetings and stated that it is a difficult issue to begin discussing at 9:00 at night, especially for the members of the public who are viewing the meeting and may want to comment during public participation. Commissioner Nafis agreed with Commissioner Bafundo that the item has appeared on various places on the agenda but agreed with Commissioner Boorman that it is too late in the evening to begin the discussion. He recommended keeping it on the agenda for future discussion. Mayor Wright commented that if the Commission does not wish to discuss the budget referendum at the current meeting then he would like to see the Commission go back to agenda item VI-A for further discussion. Commissioner Boorman remarked that it is unfortunate that the Commission is going to make the public wait until after 9:00pm to have the opportunity to discuss and participate. Mayor Wright replied that this agenda is similar to the Council’s agenda and it is not uncommon for Town Council meetings to go until 10:30pm. He noted that members of the public always have the opportunity to speak at both the beginning and end of the meetings. He stated that the rules are clear that meetings may go until 11:00pm and stated that the Commission has important business to discuss. Commissioner Boorman stated that the Commission has generally had a consensus throughout past meetings that as it approaches 8:30pm that it would try to wrap up the meeting. Commissioner Bafundo agreed with Mayor Wright that if the Commission does not wish to discuss the budget referendum it should go back and discuss additional Sections according to agenda item VI-A, and stated that the budget referendum item will appear first under Section VI of the agenda at the next meeting. She stated that she is cognizant of the time,

but stated that she would like to discuss a few more articles of the Charter. Commissioner Boorman disagreed.

The Commission agreed by consensus to take a brief recess.

Commissioner Boorman indicated that he polled the members of the public present at the meeting during the recess and learned that two members would not be able to stay to comment during public participation as they wish to do, since the meeting will run too late. Commissioner Bafundo replied that she while does not want to preclude people from participating the Commission has work to do. She invited members of the public to come back to future meetings to make their comments. (Several people speak at once.) Commissioner Boni stated that members of the public are welcome to stay, or they are welcome to save their comments for the next meeting.

The Commission reverted to agenda Section VI-A: Discussion—as Time Allows, Review/comparison of Version 6- Revisions to Original Charter

#### Section 701 – Appointment and Removal by Manager

Atty. Clark noted that the language in this Section consolidates all of the appointment powers into one preamble for consistency. He noted that Town Manager Salomone has suggested adding a sentence allowing the appointment by the Town Manager of any departments created pursuant to Section 610 that are authorized by the Council. He explained that this will cover any new departments in the created in the future.

#### Section 702 – Town Clerk through Section 709 Department of Human Services

(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6.

#### Section 710 – Department of Senior and Disabled Center Services

Commissioner Briggaman noted that the last sentence, which reads, “The Director Senior Disabled Center Services” should read “The Director of Senior Disabled Center Services”. Town Clerk Tanya Lane noted that the phrase “senior citizens center” should read “Senior and Disabled Citizens Center”. Commissioner Briggaman noted that the third sentence of the Section, which reads, “The Director Senior Disabled Center Services” should read “The Director of Senior Disabled Center Services”.

#### Section 711 – Department of Police thorough Section 713 – Purchasing Agent

(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6.

(Commissioner Boorman exited the meeting.)

#### Section 801 – Fiscal Year

No amendments made to this Section

#### Section 802 – General Form of Budget Preparation – Section 804 – Duties of the Manager on the Budget

(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6.

#### Section 805 – Duties of the Council on the Budget

Commissioner Boni stated that the second to last sentence in Section 805(A) should contain a period after the phrase “finally adopted by the Council.” Atty. Clark noted that the period actually comes after the deleted phrase, and will fall into the proper place once the phrase is actually removed from the document.

#### Section 806 – Effect of Adoption of Town Budget

No amendments made to this Section

#### Section 807 – Special Appropriations

(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6

#### Section 808 – Transfer of Appropriation

No additional changes beyond those listed in Revisions Version 6

Section 809 – Effect of Appropriation  
No amendments made to this Section

Section 810 – Lapse of Appropriation  
No amendments made to this Section

Section 811 – Borrowing to Meet Emergency Appropriations  
(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6

Section 812 – Borrowing in Anticipation of Taxes  
No amendments made to this Section

Section 813 – Notes Redeemable Prior to Maturity  
No amendments made to this Section

Section 814 – Competitive Bidding  
Commissioner Bafundo noted that the phrase “and Town website” should be added to the last sentence in Section 814(A). Mayor Wright inquired whether the language should include a clause relating to State statutes and/or FOI regulations. Ms. Lane replied that FOI is a State statute, so including it would be redundant.

Section 815 – Contracts for Public Works  
(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6

Section 816 – Payments of Claims  
Commissioner Briggaman noted that the term “Manager” was used rather than “Town Manager” in this and some other Sections. Atty. Clark stated that he would make sure the language is consistent throughout. Commissioner Bafundo inquired whether the Director of Finance is the correct title to use in this Section. Atty. Clark explained that the signatures were originally from the Director of Finance and the Town Treasurer, and stated that since the Director of Finance and the Treasurer are now the same person there needs to be someone else to provide the countersignature. Commissioner Bafundo inquired whether the language should include the Director of Finance rather than the Town Treasurer. Atty. Clark replied that the Town Treasurer has to be one of the people who actually signs the checks.

Section 817 – Fees Collected by the Town Officials and Employees through Section 819 – Penalties for Violation of any Provision of this Charter  
(Remove Amended effective 1-1-1992.) No additional changes beyond those listed in Revisions Version 6

Section 820 – Annual Audit  
Commissioner Briggaman recommended that Atty. Clark check all Sections that reference other Charter Sections to assure that all of the referenced Sections are still the correct Sections. No amendments made to this Section.

## **VII ANY OTHER BUSINESS PERTINENT TO THIS COMMISSION**

Mayor Wright noted that there is only one meeting scheduled in December (December 11) and recommended adding another meeting to the schedule. Commissioner Briggaman inquired whether the Commission feels it needs to add another meeting. Mayor Wright answered in the affirmative. Commissioner Boni agreed. The Commission discussed possible dates to schedule an additional meeting. Commissioner Bafundo noted that she would not be available to meet on the regularly scheduled December 11 meeting. The present members of the Commission discussed alternate dates for the meeting, and decided by consensus to meet on Monday, December 1. The present members of the Commission also tentatively scheduled a meeting on either Monday, December 15 or Thursday, December 18.

## **VIII WRITTEN COMMUNICATION FROM THE PUBLIC**

Commissioner Briggaman indicated that he had received an email addressed to the Charter Revision Commission c/o the Town Manager’s Office from a member of the public and read it into the record:

Dear Sirs,

Regarding the revisions to the Town Charter: Firstly, I wish to offer my appreciation to the Charter members for their sacrifices and effort in reviewing amendments to the Town Charter. As a recent naturalized American and registered voter I am glad to have taken part in the momentous election held on 11/4/2008. To participate in free democratic election process is truly an experience for me. Although I was unable to participate in the last Town election, whereby the Town residents voted in the new Town Council members based on their platform and message, I wish to express my view as an independent person. I am in support of any proposed changes to the Charter, especially the three-percent change in the budget and indexation to the CPI being submitted to a referendum vote by the Newington voters. This will enable the Town residents to have a say and determine what is good for us, especially since being taxpayers we are the main financiers of the Town. Although the process will cost the Town some money and expenditure, it is only due process since the Mayor and the majority of the Town Council members were voted in based on upon this platform. Thank you.

Very Truly Yours,  
Beng-Tart Kuan  
263 New Britain Avenue  
November 7, 2008

## IX PUBLIC PARTICIPATION

Myra Cohen, 42 Jeffery Lane, Town Council Member: Mrs. Cohen commented on the following Sections of the Charter:

- Section 504 – Acting Manager: Change the phrase “He shall have all powers” to “The Acting Town Manager shall have all powers”
- Section 805 – Duties of the Council on the Budget: Mrs. Cohen noted that language regarding the mill rate was removed because of the new Section, but commented *that before you start talking about changing things in the mandatory referendum process you refer to the mill rate. It has to be in there because you are referring to it. I don't know why you are taking it out.*
- Section 808 – Transfer of Appropriation: Mrs. Cohen inquired whether the language in the last part of this Section actually came from Finance Director Ann Harter. Atty. Clark replied in the negative. Mrs. Cohen noted that Mrs. Harter was actually referring to capital and non-recurring expenditures, and requested that the Commission check with Mrs. Harter for the wording.

Mrs. Cohen noted the Commission's discussion regarding eliminating the number of voters required to pass a referendum, and implored the Commission to reconsider that decision. She stated that it would be a big mistake to eliminate those requirements and remarked that she would vote no to the entire Charter revision on the basis of eliminating those requirements. She requested that the Commission really consider what it means to have that provision in the language. She stated that voter turnout for a referendum is not comparable to voter turnout for a general election.

Judy Igielski. 23 Old Musket Drive: Ms. Igielski noted that she had been watching the meeting from home but felt that she had to come in to comment. She commented that the ten-percent voter turnout requirement is a ludicrous number to begin with and stated that it should be higher. She stated that comments such as “if one person comes out to vote then so be it” are not worthy of the diligence that the Commission is giving to the process. She stated that to even justify the \$100,000 expense of the two referendums there must be an all-out effort to encourage all voters to come out and vote and stated that to give the impression that only one vote is acceptable is wrong. She noted that there may be a State Statute that requires a minimum number of voters. Ms. Igielski recommended that there be three choices for a budget referendum vote: “yes”, “no – too high” and “no – too low” because otherwise if the budget is voted down it will be assumed that it is because the budget is too high, when in fact it may be too low. She also suggested that if the Commission plans to hold meetings that go past 9:00pm it should be reflected on the announcements posted on the Town Bulletin board. She commented that she was very surprised to witness some of the behavior and attitudes that she observed while watching the meeting. She noted that she heard private conversations between a couple of members while another member was talking, and heard heavy sighs and the constant drumming of fingers and/or pens. She commented that the public perception may not be a positive one when the public sees a Mayor or in some cases Councilors serve on a board or commission and then vote at a Council meeting on a recommendation or report by the commission in which they serve. She noted that she has witnessed the work of residents, and

has served on boards and commissions and also served as an elected official for eight years. She noted that she served as a liaison to many commissions and remarked that there is a very fine line between serving as an ex officio and voicing opinions and actually voting. She commented that a person who is serving as a liaison or an ex officio member should not have the right to speak as a member of that commission as too much involvement can cloud voting on an issue and can be seen as a conflict of interest. She noted that elected officials need to be above board and show that they do not have a conflict of interest. Mrs. Igielski stated that she is not in favor of a member of the Council serving on a board or commission, and remarked that the residents need to have more of a say on boards and commissions. Ms. Igielski cautioned the Commission to spend ample time discussing the budget referendum and urged the Commission to restore the minimum voting percentages using a number slightly lower than the average voter turnout at general elections.

Rose Lyons, 46 Elton Drive: Ms. Lyons commented that it seems to be the perception with last year's election of the Mayor and Council that the Newington residents are in favor of a three-percent cap but noted that at this year's election neither the candidate for State Legislature nor the candidate for the State Senate that ran on the three-percent tax cap platform were elected to office.

## **X COMMENTS BY COMMISSIONERS**

Commissioner Bafundo stated that she is sorry that there were some members of the public that were unable to stay for public participation and invited them back to attend a future meeting. She stated that there was no intent on her part or the Commission's part to not allow anyone to participate.

Mayor Wright noted a public participation comment that the cost of two referendums would be \$100,000 and clarified that the cost per referendum would actually be \$15,000 - \$20,000. He also noted that according to State statute the size of the Charter Revision Commission (five people as decided by the Town Council) allows for one elected official to serve as a voting member of the Commission (Councilor Boni). He stated that the Commission members are a very diverse group, with Commissioner Nafis active in many things including the Conservation Commission; and his wife Sandy Nafis is a State Representative. He stated that Commissioner Boorman is a past Town Attorney and a member of the Democratic Town Committee. He stated that Commissioner Bafundo is a former Councilor and has been active on many boards and commissions. He stated that Commissioner Boni is a member of the Town Council. He stated that Commissioner Briggaman has not served on any board or commission in the past, nor has he been an elected official and he thanked him for stepping up to the plate to serve on the Commission.

Mayor Wright stated that the Commission needs to stick to its agenda in order to get its work done, and stated that it has until 11:00pm to get its work done at each meeting. He thanked the Commission for its hard work.

## **XI ADJOURNMENT**

Commissioner Boni moved to adjourn the meeting at 9:50 PM. Motion seconded by Commissioner Briggaman. Motion passed 4-0 (Commissioner Boorman not present for the vote).

Respectfully Submitted,

Mrs. Jaime Trevethan  
Clerk – Charter Revision Commission